

**49.26 Commissioner to decide method of voting — counting of ballots.**

1. In all elections regulated by [this chapter](#), the voting shall be by paper ballots printed and distributed as provided by law, or by voting systems meeting the requirements of [chapter 52](#).

2. *a.* The commissioner shall determine in advance of each election conducted for a city of three thousand five hundred or less population or for any school district whether the ballots will be counted by automatic tabulating equipment or by the precinct election officials. In making such a determination, the commissioner shall consider voter turnout for recent similar elections and factors considered likely to affect voter turnout for the forthcoming election.

*b.* If the commissioner concludes, pursuant to paragraph “*a*”, that voting will probably be so light as to make counting of ballots by the precinct election officials less expensive than preparation and use of automatic tabulating equipment, paper ballots may be used, subject to paragraph “*c*”. If paper ballots are used, the commissioner shall use ballots and instructions similar to those used when the ballots are counted by automatic tabulating equipment.

*c.* Notwithstanding a determination by the commissioner pursuant to paragraph “*b*”, upon receipt of a petition signed by not less than one hundred eligible electors, the commissioner shall count the ballots at an election described in paragraph “*a*” using automatic tabulating equipment. A petition filed under this paragraph must be received by the commissioner not later than 5:00 p.m. on the forty-second day before the election.

[S13, §2754; C24, 27, §4203; C31, 35, §4216-c15; C39, §4216.15; C46, 50, 54, 58, 62, 66, 71, 73, §277.15; C75, 77, 79, 81, §49.26]

[97 Acts, ch 170, §28](#); [2009 Acts, ch 57, §24](#); [2010 Acts, ch 1033, §17, 56](#); [2010 Acts, ch 1060, §10 – 12](#)

Referred to in [§49.25](#), [§50.24](#), [§52.1](#)